

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5009 PCB APC 11-03 Auditor General

SPONSOR(S): Appropriations Committee, Grimsley

TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---------------------------------------|-----------|---------|--|
| Orig. Comm.: Appropriations Committee | 22 Y, 0 N | Kramer | Leznoff |

SUMMARY ANALYSIS

The bill modifies statutory requirements relating to the frequency of certain operational and financial audits conducted by the Auditor General. The bill requires the Auditor General to submit an annual report which includes a projected two-year work plan.

The bill conforms to the House proposed General Appropriations Act for the 2011-2012 fiscal year. The Auditor General's budget is being reduced by \$1.5 million in fiscal year 2011-12. The provisions of the bill will allow the Auditor General to be better positioned to absorb the budget reduction and focus attention where most needed.

The bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Article III, s. 2 of the Florida Constitution provides that “the legislature shall appoint an auditor to serve at its pleasure who shall audit public records and perform related duties as prescribed by law or concurrent resolution.” Currently, s. 11.42, F.S. sets forth the process for appointment and required qualifications of the Auditor General.¹

Frequency of Audits:

Section 11.45(3), F.S. provides that the Auditor General must conduct audits of records and perform related duties as prescribed by law, concurrent resolution of the Legislature, or as directed by the Legislative Auditing Committee. The section also requires that the Auditor General must conduct audits of local governmental entities when determined to be necessary by the Auditor General, when directed by the Legislative Auditing Committee, or when otherwise required by law.

The section requires that the Auditor General must conduct the following once every three years:

- Performance audits of the Department of Revenue’s administration of the ad valorem tax laws.
- Financial audits of the accounts and records of all district school boards in counties with populations of 125,000 or more, according to the most recent federal decennial statewide census.
- Reviews of a sample of each state agency’s internal audit reports to determine compliance with current Standards for the Professional Practice of Internal Auditing or, if appropriate, government auditing standards.

The section provides that the Auditor General must conduct the following at least once every two years:

- Operational audits of the accounts and records of state agencies and universities.
- A performance audit of the local government financial reporting system.

The section requires the Auditor General to conduct the following annually:

- Financial audit of state government.
- Financial audits of all universities and district boards of trustees of community colleges.
- Financial audits of the accounts and records of all district school boards in counties with populations of fewer than 150,000, according to the most recent federal decennial statewide census.
- Audits of the accounts and records of the Florida School for the Deaf and the Blind.

The bill modifies the requirements relating to the frequency of audits as described in the chart below:

| Type of Audit | Frequency in current law | Frequency in bill |
|------------------------------------|--------------------------|------------------------|
| State government financial audit | Annually | unchanged |
| State agency operational audit | At least every 2 years | At least every 3 years |
| University/college financial audit | Annually | unchanged |
| University operational audit | At least every 2 years | At least every 3 years |
| College operational audit | Not specified | At least every 3 years |
| Florida Clerks of Court | Annually ² | At least every 3 years |

¹ See also, Joint Rule Five – Auditor General.

² Currently, the audit requirements relating the Florida Clerks of Court Operations Corporation may be found in s. 28.35, F.S. The bill amends this section to conform to the changes made in s. 11.45, F.S.

| | | |
|---|-------------------------------------|------------------------|
| Operations Corporation operational audit | | |
| Florida School for the Deaf and the Blind operational audit | Annually ³ | At least every 3 years |
| District school board financial audits – counties of fewer than 150,000 | Annually | unchanged |
| District school board financial audits – counties of more than 150,000 | Once every three years ⁴ | unchanged |
| District school board operational audit | Not specified | At least every 3 years |
| Local government financial reporting system | At least every 2 years | At least every 3 years |

The bill modifies the definition of the term “financial audit” and 218.31(17), F.S. to provide that when applicable, the scope of financial audits must encompass the additional activities necessary to establish compliance with the Single Audit Act Amendments of 1996 and other applicable federal law.⁵ The bill modifies the definition of the term “operational audit” to mean an audit whose purpose is to evaluate management’s performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste and abuse, and in administering assigned responsibilities in accordance with applicable laws, rules, regulations, contracts, grant agreements and other guidelines. The bill further provides that all audits must be conducted in accordance with government auditing standards and identify weaknesses in internal controls.

The bill removes the requirement that the Auditor General give appropriate consideration to reports issued by agencies’ or universities’ inspectors general and the resolution of the finding of the reports.

Florida Bright Futures Scholarship Program:

Section 1009.53, F.S. provides that each institution that receives moneys through the Florida Bright Futures Scholarship Program must prepare an annual report that includes an annual financial audit conducted by an independent certified public accountant or the Auditor General.

The bill requires that the audit must be performed for each fiscal year in which the institution expends program moneys in excess of \$100,000 and provides that at least every two years the audit must include an examination of the institution’s accounting of the moneys for the program since the last examination. The bill also provides that any institution not subject to an audit must attest, under penalties of perjury, that proceeds received under the program were used in compliance with the applicable law. The attestation will be made annually in a form determined by the Department of Education.

Virtual Education Providers:

Currently s. 11.45(3), F.S. provides that the Auditor General may conduct audits of an extensive list of specified entities or types of records. Included in the list is the Florida Virtual School. The bill adds virtual education providers receiving state funds or funds from local ad valorem taxes.

Reporting Requirements:

³ Currently this requirement may be found in s. 1002.36(3), F.S. and s. 11.45(2)(f), F.S. The bill amends s. 1002.36(3), F.S. to conform to the changes made in s. 11.45, F.S.

⁴ Currently this requirement may be found in s. 11.45(2)(j), F.S. and has been moved to paragraph (e).

⁵ 31 U.S.C. ss. 7501-7507

Currently, s. 11.45(7)(h), F.S. requires the Auditor General to provide a list of statutory and fiscal changes recommended by the office to the legislature each year. The bill requires the Auditor General to produce an annual report which will include a projected 2 year work plan identifying the audits and other accountability activities to be undertaken during that time.

Other changes:

The bill also makes other changes including:

- Transferring from s. 195.096, F.S. to s. 11.45, F.S., requirements relating to the Auditor General's performance audit of the Department of Revenue's administration of the ad valorem tax laws.
- Eliminating the requirement that the Auditor General conduct an annual audit the Emergency Communications Number System Fund.
- Eliminating the requirement in s. 11.45(2)(e), F.S., that the Auditor General annually audit, through fiscal year 2008-2009, the Wireless Emergency Telephone System Fund.
- Removes requirement that the Auditor General audit the Investment Fraud Restoration Financing Corporation as the program has been eliminated in statute.
- Changing to cross-references.

B. SECTION DIRECTORY:

Section 1. Amends s. 11.45, F.S., relating to definitions; duties; authorities; reports; rules.

Section 2. Amends s. 25.075, F.S., relating to uniform case reporting system.

Section 3. Amends s. 28.35, F.S., relating to Florida Clerks of Court Operations Corporation.

Section 4. Amends s. 195.096, F.S., relating to review of assessment rolls.

Section 5. Amends s. 218.31, F.S., relating to definitions.

Section 6. Amends s. 273.05, F.S., relating to surplus supply.

Section 7. Amends s. 365.173, F.S., relating to emergency communications number E911 system fund.

Section 8. Amends s. 943.25, F.S. relating to criminal justice trust funds; source of funds; use of funds.

Section 9. Amends s. 1002.36, F.S., relating to the Florida School for the Deaf and Blind.

Section 10. Amends s. 1009.53, F.S., relating to Florida Bright Futures Scholarship Program.

Section 11. Amends s. 938.01, F.S., relating to Additional Court Cost Clearing Trust Fund.

Section 12. Amends s. 943.17, F.S., relating to basic recruit, advanced, and career development training programs; participation; cost; evaluation.

Section 13. Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

In the House proposed budget, the Auditor General's budget for fiscal year 2011-12 is reduced by \$1.5 million, in great part due to the provisions of this bill giving the Auditor General more flexibility in the scheduling of certain types of audits.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate. Local governments may be impacted by reduced audit coverage by the Auditor General. However, because the Auditor General will have greater flexibility to base audits on risk assessments, it is more likely that entities that require increased attention will receive it.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

See above.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES